

Senate File 2321

S-5051

1 Amend Senate File 2321 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 29B.16, Code 2014, is amended
5 to read as follows:

6 **29B.16 Jurisdiction of courts-martial in general.**

7 1. Each force of the state military forces has
8 court-martial jurisdiction over all persons subject to
9 this code.

10 2. Courts-martial have primary jurisdiction of
11 military offenses as defined in sections 29B.77 through
12 29B.116 of this code.

13 **Sec. 2. NEW SECTION. 29B.90A Interference with**
14 **report of a crime to civilian law enforcement.**

15 Any person subject to this code shall be punished as
16 a court-martial may direct if the person does any of
17 the following:

18 1. Interferes with or reprises against any member
19 of the state military forces who has indicated the
20 intent to make or who has made a report to civilian
21 law enforcement of a crime listed in section 29B.116A,
22 subsection 1, where the accused and the victim are
23 subject to this code at the time of the offense.

24 2. Fails to cooperate with or obstructs a civilian
25 law enforcement investigation based upon a report in
26 subsection 1.

27 **Sec. 3. Section 29B.116, Code 2014, is amended to**
28 **read as follows:**

29 **29B.116 General article.**

30 ~~Though Subject to section 29B.116A, though not~~
31 ~~specifically mentioned in this code, all disorders and~~
32 ~~neglects to the prejudice of good order and discipline~~
33 ~~in the state military forces and all conduct of a~~
34 ~~nature to bring discredit upon the state military~~
35 ~~forces, of which persons subject to this code may be~~
36 ~~guilty, shall be taken cognizance of by a general,~~
37 ~~special, or summary court-martial, according to the~~
38 ~~nature and degree of the offense, and shall be punished~~
39 ~~at the discretion of that court. However, cognizance~~
40 ~~shall not be taken of, and jurisdiction shall not be~~
41 ~~extended to, the crimes of murder, manslaughter, sexual~~
42 ~~abuse, robbery, maiming, arson, extortion, assault,~~
43 ~~burglary, or housebreaking, jurisdiction of which is~~
44 ~~reserved to civil courts.~~

45 **Sec. 4. NEW SECTION. 29B.116A Jurisdiction of**
46 **offenses by civilian courts and notification of civilian**
47 **authorities.**

48 1. a. Jurisdiction under this code shall not
49 be extended to the crimes of murder, manslaughter,
50 sexual abuse, robbery, arson, extortion, assault, or

1 burglary, jurisdiction of which is reserved exclusively
2 to civilian courts.

3 *b.* The term "*civilian criminal offenses*" includes
4 all offenses not defined in this code. Primary
5 jurisdiction over civilian criminal offenses shall be
6 with civilian courts, even when committed by a member
7 of the state military forces while subject to this
8 code.

9 *c.* Where a civilian criminal offense and a military
10 offense defined in this code may be charged based
11 on the same event, concurrent civilian and military
12 jurisdiction shall exist.

13 2. *a.* A commander, who is made aware of an
14 allegation that an offense under subsection 1,
15 paragraph "*a*" or "*b*", has been committed by a member
16 of the state military forces against another member of
17 the state military forces while both are subject to
18 this code, shall notify local civilian law enforcement
19 authorities without delay.

20 *b.* (1) Regarding an allegation of sexual abuse,
21 the commander shall provide the person making the
22 allegation with written notice of the person's right
23 to notify local civilian law enforcement authorities
24 independently, as described in subsection 3. The
25 written notice shall include contact information for an
26 appropriate civilian law enforcement authority.

27 (2) Regarding an allegation of sexual abuse, the
28 commander's obligation to notify under paragraph "*a*"
29 shall not apply to an allegation that is a restricted
30 report, as that term is defined in federal military
31 regulations. The commander's obligation to notify
32 under paragraph "*a*" shall apply to an allegation of
33 sexual abuse that is an unrestricted report, as that
34 term is defined in federal military regulations. The
35 commander's written notification under subparagraph
36 (1) shall inform the person making an allegation of
37 sexual abuse that if the person consents to making
38 an unrestricted report that the person is thereby
39 consenting to the commander notifying an appropriate
40 civilian law enforcement authority so that such an
41 authority may initiate an investigation or collect
42 evidence. The commander's written notification under
43 subparagraph (1) shall also inform the person making
44 the allegation that if the person consents to making an
45 unrestricted report that the person is not required to
46 speak with civilian law enforcement investigators or
47 otherwise participate in an investigation by a civilian
48 law enforcement authority.

49 3. Members of the state military forces who are
50 victims of offenses described in subsection 1 retain

1 the right to notify local civilian law enforcement
2 authorities independently.

3 Sec. 5. NEW SECTION. 29B.116B Adjutant general
4 report.

5 The adjutant general shall report annually, by
6 January 15, to the governor and to the chairpersons
7 and ranking members of the general assembly's standing
8 committees on veterans affairs on the number of
9 offenses described in section 29B.116A, subsection
10 1, which have reported to civilian law enforcement
11 authorities in the prior year, if such offenses were
12 committed by a member of the state military forces
13 against another member of the state military forces
14 while both are subject to this code. The report shall
15 provide such numbers by type of offense.

16 Sec. 6. Section 803.1, subsection 1, Code 2014, is
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. *f.* The offense is committed by a
19 member of the state military forces against another
20 member of the state military forces, both are in a duty
21 status at the time of the offense, whether inside or
22 outside the state, and the offense is one for which
23 civil courts have jurisdiction under section 29B.116A.
24 However, for those offenses subject to both civilian
25 and military jurisdiction, civilian jurisdiction shall
26 not be declined solely on that basis.>

27 2. Title page, by striking lines 1 through 4 and
28 inserting <An Act relating to jurisdiction over certain
29 offenses committed by members of the state military
30 forces, and establishing certain notification and
31 reporting requirements.>

STEVEN J. SODDERS